

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE EX PARTE APPLICATION OF SBK ART LLC :
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24 Misc. 142 (PAE) (RFT)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

This case involves an application under 28 U.S.C. § 1782 for discovery in aid of foreign proceedings by petitioner SBK ART LLC (“SBK”). On March 26, 2024, SBK filed the discovery application, Dkt. 8 (the “Petition”), which seeks documents and deposition testimony from respondent Kroll LLC (“Kroll”). SBK seeks these for use in (1) pending civil proceedings in Malta and (2) contemplated civil proceedings in the Netherlands. *See id.* at 2.

On April 22, 2024, the Court referred SBK’s Petition to United States Magistrate Judge Robyn Tarnofsky. Dkt. 14.

On May 6, 2024, Judge Tarnofsky issued a Report and Recommendation. Dkt. 14 (the “Report”). It recommends that the Court grant the Petition.

On May 17, 2024, Kroll sought, and the Court granted, a stay of the parties’ deadline to file any objections to the Report pending this Court’s resolution of the discovery application in a related case involving Akin Gump Strauss Hauer & Feld, LLP (“Akin”). *See In re SBK ART LLC*, 24 Misc. 147 (S.D.N.Y.) (the “related case”). On May 30, 2025, the Court issued its decision in the related case, which terminated the stay in this case. *See* 24 Misc. 147, Dkt. 57.

That same day, the Court directed the parties to file any objections by June 13, 2025. Dkt. 24 (the “June 13, 2025” order).

Neither party has filed objections.¹ The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts the Report’s recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950, 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 2 Civ. 5810, 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Tarnofsky’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “the parties shall have fourteen days to file written objections” and that “failure to file these timely objections will result in a waiver of those objections for purposes of appeal,” Report at 12, the parties’ failure to object operates as a waiver of appellate review, *see Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

¹ On June 19, 2025, SBK filed a letter notifying the Court that Kroll “does not object to the Court’s adoption of the [Report]” Dkt. 25.

CONCLUSION

For the foregoing reasons, the Court adopts the Report. The Court accordingly grants the Petition. The Clerk of Court is respectfully directed to terminate all pending motions and to close this case.

SO ORDERED.

A handwritten signature in black ink, reading "Paul A. Engelmayer". The signature is written in a cursive, flowing style. The first name "Paul" is written in a larger, more prominent script than the last name "Engelmayer".

Paul A. Engelmayer
United States District Judge

Dated: June 20, 2025
New York, New York